

# **Jail Programs Report**

Utah Department of Corrections



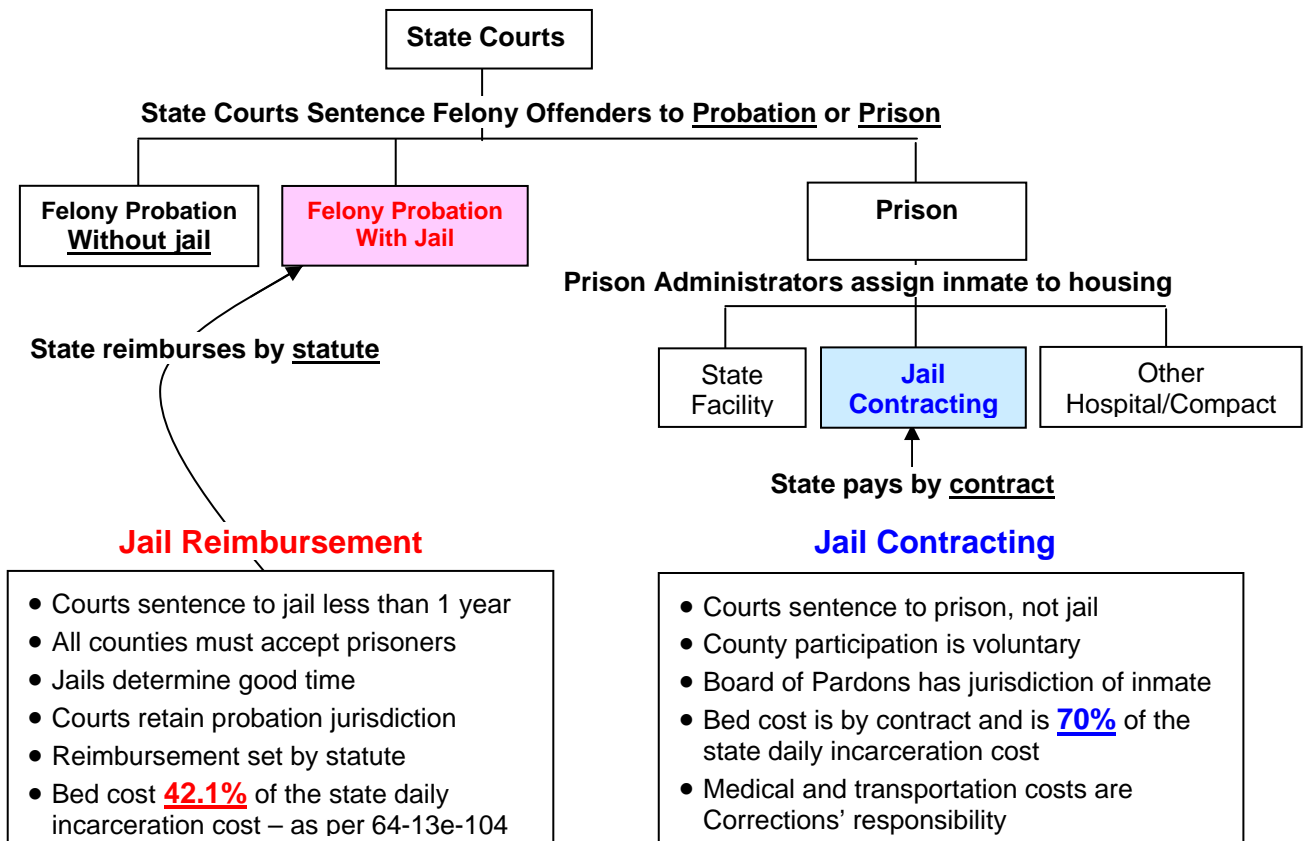
**Law Enforcement and Criminal Justice Interim Committee**

*September 22, 2008*

## Jail Programs

HB 118, passed in 1999 (64-13c-106), requires Corrections to provide the Legislative Law Enforcement and Criminal Justice Interim Committee a report regarding housing of state offenders in county jails.

### Jail Reimbursement, Jail Contracting and Corrections' Role



### Jail Contracting

Corrections contracts with 21 of the 26 county jails in the state. The Department relies on the county jail system to house a significant number of inmates sentenced to prison. In FY'09 Corrections has funding (including \$2 million one-time) to house approximately 1,456 inmates in county jails, which represents approximately 22% of the total incarcerated population. (Of this total, about 50 contract beds are being used to house parolees on halfway out and halfway back status.) Note: While Corrections has FY'09 funding for 1,456 beds, the counties do not have that number of beds available for contracting. The total number of beds that are available varies from day to day but should average the funded amount over the course of the fiscal year.

Both the State of Utah and the counties have realized many benefits from participating in county jail contracting. If Utah were to build prison space for the 1,280 offenders that were housed in county jails on September 18<sup>th</sup>, 2008, it would cost over \$150 million in additional construction expense, and require additional state FTE to operate those new facilities.

By participating in the county jail contract program, the state enhances economic development of the counties and helps establish effective local jail systems. Inmates can be housed in their local areas near families, and other community ties. In addition, jail contracting allows the state to provide for inmate protection and house state inmates in smaller, more manageable groupings. In FY'09, Corrections has an authorized general fund base budget of \$21,926,600 in Jail Contracting plus an additional \$2 million in one-time funding that the Legislature added on the last day of the 2008 General Session, for a total amount of \$23,926,600.

### **Jail Reimbursement**

By statute, the State is required to reimburse the Counties at 42.1% of the state daily incarceration cost for all **felony** offenders who are sentenced to jail as a condition of probation. Corrections acts as the administrator of this fund for the state. During the 2008 General Session, the Legislature passed HB 282 (State Payment and Reimbursement to County Correctional Facilities). That bill introduced a new requirement to reimburse counties for housing felony probationers and parolees at the rate of 42.1% of the state daily incarceration rate.

**64-13e-104(2)** *Within funds appropriated by the Legislature for this purpose, the department shall reimburse a county that houses a state probationary inmate or a state parole inmate at a rate of 42.1% of the final state daily incarceration rate.*

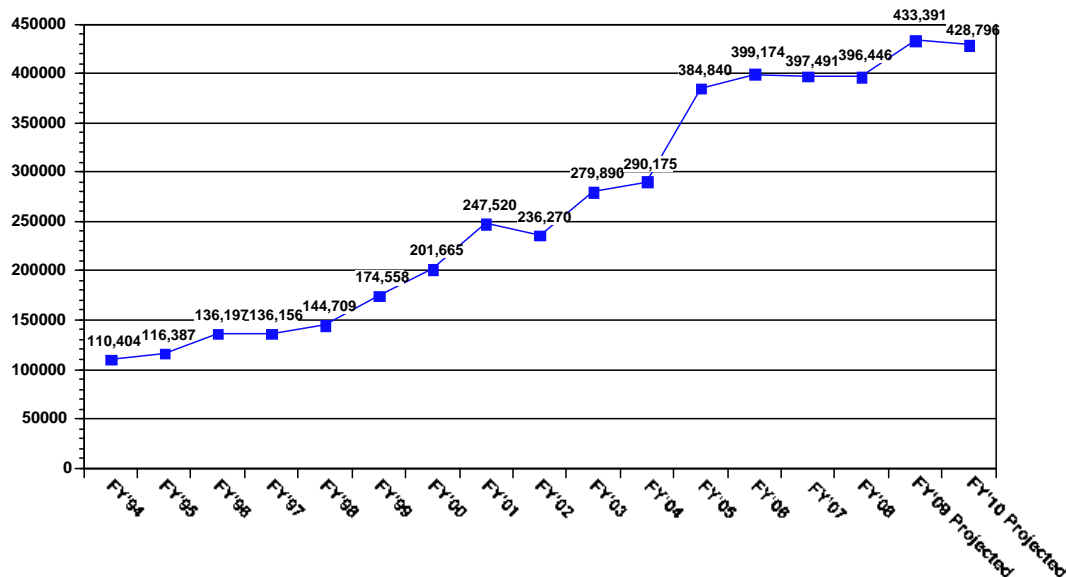
In FY'08, the total number of billed days was 396,446 days. Over the last year, it appears that the number of felony probation sentences with jail as a condition of the probation has declined slightly. This may partially explain the drop in actual billed days for FY'08.

In FY'09, Corrections has an authorized general fund base budget of \$9,605,900 in Jail Reimbursement plus an additional \$2 million in one-time funding that the Legislature added on the last day of the 2008 General Session, for a total amount of \$11,605,900.

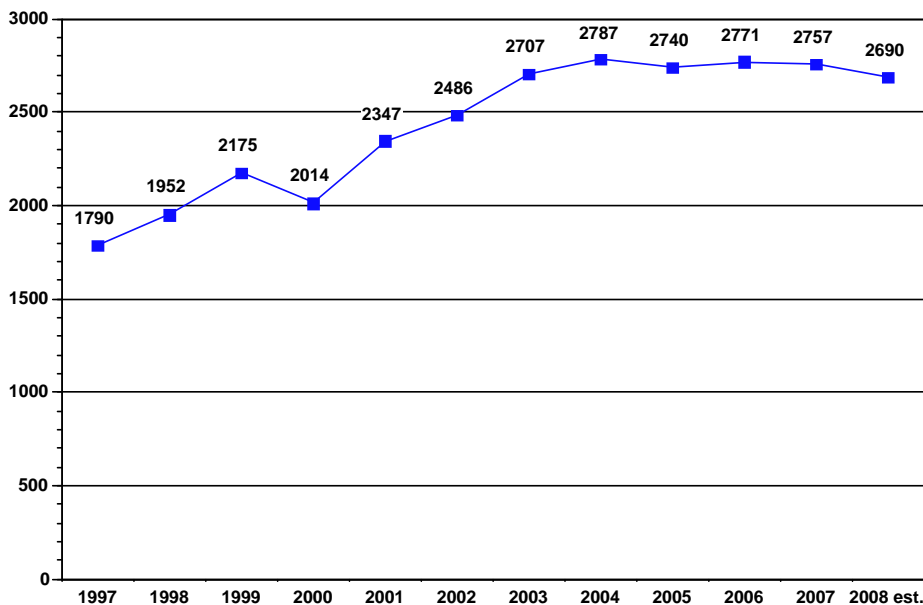
As the following charts indicate, both the total number of felony offenders receiving sentences with required jail and the average number of jail days ordered have both declined. Actual average monthly billed days have remained flat since November of 2005.

**Factors Leading to an Increase in Jail Reimbursement Use.** The chart below shows the increase in number of days billed by the counties to the Jail Reimbursement fund since FY'94. These billings have tripled in the 16 year time period covered by this chart.

**Jail Reimbursement Days Billed**



**Jail as a Condition of Felony Probation**



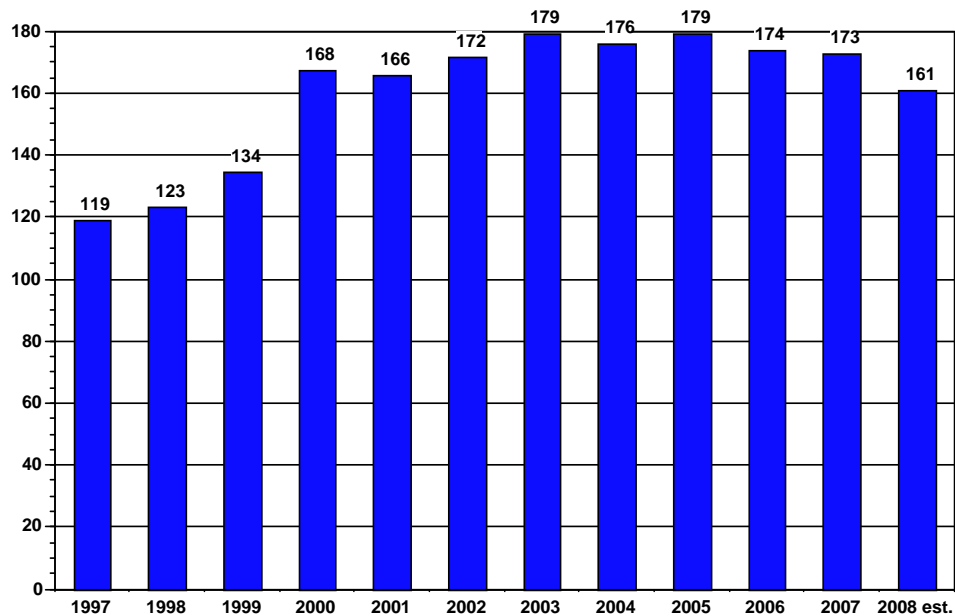
Three factors have led to an increase in the use of jail reimbursement funds. The first is an increase in the number of offenders who are sentenced to jail as a condition of felony probation. The chart on the left reflects Corrections' data on felony jail sentences by calendar year. Since 1997, the number of offenders sentenced to jail has increased by 50%.

While the estimated number of jail sentences appears to decline in 2008, the overall pattern between 1997 and 2008 suggests that the state should anticipate continued growth in the use of jail as a condition of felony probation sentences.

The second factor is an increase in the length of jail sentences given to offenders. Since 1997, the average sentenced time has increased from 119 days to an estimated 161 days in 2008, an increase of over 35%.

Comparing the impact of these two factors shows that they have both contributed to the increase in jail use.

**Average Days for Jail as a Condition of Felony Probation**



A final factor which has continued to impact the number of days billed to the fund is the improvement in billing processes by the counties. As the topic has received more attention, the counties have become more aware of how to access these funds and their billing has improved.

### **Establishment of a New Core Rate**

As defined in UCA 64-13e-102, each fiscal year, a new jail programs core rate is calculated using a formula outlined in the statute. Corrections is required to calculate an average cost per day for the most recent 3 fiscal years. The expenses that are to be used in the calculation include executive overhead, administrative overhead, transportation overhead, division overhead, motor pool expenses, medical expenses, mental health expenses and a straight-line capital depreciation, over a 40-year period, for prison facilities of the department.

For FY'10, Corrections is using a cost per day rate of \$77.32/day which is the average actual state cost per day for the last 3 years for which data is available, and includes the capital depreciation cost of facilities.

### **FY'10 Jail Contract Core Rate Payment Calculation**

By statute, the core rate payment for jail **contracting** will be **.70%** of the calculated Corrections' cost per day. This means that the contract rate for FY'10 should be 70% of \$77.32, or **\$54.12/day**.

### **FY'10 Jail Reimbursement Core Rate Payment Calculation**

By statute, the core rate payment for jail reimbursement will be **.421%** of the calculated Corrections' cost per day. This means that the contract rate for FY'10 should be 42.1% of \$77.32, or **\$32.55/day**.

### **Core Rate Committee**

As 64-13e-105(2) indicates, before September 1 of each year, the following parties shall meet to review and discuss the proposed state daily incarceration rate, as described in Subsection (1).

- One Sheriff of county currently contracting
- Executive Director, UDC
- One Legislator from county under contract
- Executive Director, CCJJ, or designee
- One Sheriff of county currently being reimbursed
- Designee of Utah Association of Counties
- One Legislator from county being reimbursed
- Director, GOPB, or designee

Starting in 2006, the rate calculations included capital depreciation costs which were calculated using a 40-year straight line depreciation on all state prison facilities.

As required by the statute, the jail rate setting committee met and discussed the proposed new core rate. The FY'10 core rate calculations for contracting and for reimbursement may not be implemented until approved by the Legislature in the annual appropriations act. Nothing in the statutory language prohibits the Legislature from setting the final state daily incarceration rate at an amount higher or lower than the current rate under review, or the rate that was used during the preceding fiscal year.

During the last Session, the Legislature set the payment rates at \$45/day for jail contracting and \$27.10/day for reimbursement. The core rate calculation presented to the core rate committee meeting on September 18, 2008, creates a core rate increase of \$5.54/day for jail reimbursement and \$9.12/day for jail contracting.

If the new core rate is approved by the Legislature, Corrections will request FY'10 budget increases of \$2,336,938 for Jail Reimbursement and \$5,019,830 for Jail Contracting to cover the difference between the old core rate and the new core rate. **These amounts would be in addition to any budget increases to address anticipated growth in the use of either the Jail Reimbursement or Jail Contracting programs during FY'10.**

**Number of Offenders Included in Jail Programs in FY'07**

Corrections is required to provide detail about the number of state offenders utilizing county jail housing resources. The list below provides the **compensated**, daily state-offender population in each of the counties. The two columns provide detail about which type of state offender population is accessing which type of county housing.

<b>JAIL REIMBURSEMENT</b>				<b>JAIL CONTRACTING</b>		
<b>COUNTY</b>	<b>FY 2007 Condition of Probation</b>	<b>FY 2008 Condition of Probation</b>	<b>FY 2008 Reimbursement Payments</b>	<b>FY 2007 Inmate Contract</b>	<b>FY 2008 Inmate Contract</b>	<b>FY 2008 Contract Payments</b>
Beaver	7.1	4.7	46,910.10	270.7	357.8	5,877,270.00
Box Elder	27.8	28.9	285,390.10	23.2	22.7	373,410.00
Cache	30.2	34.6	342,571.10	79.3	62.4	1,024,605.00
Carbon	3.4	5.6	55,555.00	5.5	6.2	101,430.00
Daggett	0.3	0.0	0.00	66.2	48.3	794,025.00
Davis	145.4	167.3	655,078.30	32.7	97.7	1,605,015.00
Duchesne	8.8	8.8	86,747.10	133.3	112.1	1,840,725.00
Emery	4.8	7.4	73,332.60	0.0	0.0	0.00
Garfield	1.9	2.4	23,848.00	93.2	91.1	1,496,970.00
Grand	11.7	11.4	112,546.30	6.4	4.9	80,100.00
Iron	32.2	35.6	352,516.80	0.9	1.1	18,045.00
Juab	8.9	10.9	107,695.40	6.2	3.9	64,665.00
Kane	4.1	1.3	13,035.10	10.7	9.4	154,575.00
Millard	8.5	5.1	50,622.80	53.3	51.8	850,365.00
Morgan	1.5	1.4	13,414.50	0.0	0.0	0.00
Piute	0.00	0.0	0.00	0.0	0.0	0.00
Rich	0.6	0.2	2,059.60	0.0	0.0	0.00
Salt Lake	231.3	307.8	3,045,064.40	0.0	0.0	0.00
San Juan	10.2	7.6	75,256.70	69.6	68.7	1,128,870.00
Sanpete	11.2	7.8	77,153.70	3.3	3.6	58,365.00
Sevier	15.4	18.9	186,529.30	66.2	66.8	1,097,010.00
Summit	5.5	8.6	84,579.10	32.4	29.2	479,700.00
Tooele	16.8	16.6	164,198.90	0.0	0.0	0.00
Uintah	14.6	16.1	158,778.90	26.7	31.6	518,625.00
Utah	134.1	119.8	1,185,055.90	0.0	0.0	0.00
Wasatch	13.7	10.4	103,359.40	47.1	47.9	787,455.00
Washington	33.5	43.7	432,353.40	166.4	134.2	2,204,595.00
Wayne	0.4	0.1	867.20	0.0	0.0	0.00
Weber	170.4	204.1	2,018,760.30	141.4	102.1	1,677,105.00
<b>State Totals</b>	<b>954.2</b>	<b>1087.1</b>	<b>\$10,753,280</b>	<b>1334.8</b>	<b>1353.6</b>	<b>\$22,232,925</b>